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MEMORANDUM FOR: Director of Central Intelligence

FROM: George L. Cary  
Legislative Counsel

SUBJECT: Effect of Senate Select Committee Authorization  
Bill on the Intelligence Budget Process

1. Action Requested: None; for information only.
2. Background: This year, for the first time, an authorization bill has been introduced in the Senate setting budget authorizations for intelligence programs. This bill, S 1539, has been reported for full Senate action pursuant to the requirement levied upon the Senate Select Committee in Section 12 of S. Res. 400.
3. The initial effect of this bill is to bind the Senate Appropriations Committee to program levels no higher than those authorized in the Senate Select Committee bill. As is noted in the bill (S 1539) no figures are presented with the exception of the operating budget for the Intelligence Community staff. However, Section 101 (b) of S 1539 incorporates by reference the classified report which lists program levels and certain line items.
4. The normal authorization process which affects other agencies in the Government, requires an authorization bill to be passed by both Houses and signed by the President. Such an authorization measure then sets the upper limits under which the Appropriations Committees of both Houses can specifically appropriate funds for the operations of the agencies and their programs. In the case of the Senate Select Committee on Intelligence authorization, however, we are dealing with a measure which is to be considered initially only by the Senate. While the Senate is expected to pass S 1539, thus accepting the authorization levels contained in the classified report, the House is not expected to take up this measure.
5. The Armed Services Committees in the House and the Senate have reported, and both the House and Senate have passed an authorizing bill encompassing those programs requiring authorization. Certain items in the Armed Services authorization cover budget requests for the Intelligence Community. However, only the Senate through the Senate Select Committee on Intelligence bill will treat the entire intelligence budget.

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6. The full effect of the Senate Select Committee bill, S 1539, on the final budget process is not yet known. What is understood is that the House Appropriations Committee, which is presently considering the intelligence budget, is not bound by the authorizing level set in S 1539. According to the interpretation of the parliamentary situation by James Fellenbaum, of the Senate Appropriations Committee staff, the Senate Appropriations Committee will feel bound by the major program levels set by S 1539 when it considers the intelligence budget next month. It should be noted, however, that Mr. Fellenbaum stated that while the Senate Appropriations Committee will attempt to work within the major program levels set in S 1539, it will not feel bound by the cuts in specific line items as expressed in the Senate Select Committee's classified report. For example, Fellenbaum stated that while an \$8.7 million cut was recommended in the major program such as ADP, and additionally the Senate Select Committee on Intelligence report suggests where in ADP various cuts can be made, as for example \$6.5 million in SAFE, the Senate Appropriations Committee will probably accept the \$8.7 million cut but will not feel bound to apply \$6.5 million to SAFE. Fellenbaum noted, however, that should the Executive Branch not contest the SAFE cut and not recommend alternative areas for savings, it is likely that Senate Appropriations Committee will go along with the Senate Select Committee on Intelligence's recommendation in the absence of any other reasonable suggestions.

7. To explore the matter further, I presented to Fellenbaum a scenario whereby the House Appropriations Committee, appropriates funds in excess of those bills recommended by Senate Select Committee. Fellenbaum opined that in such a case the Senate Appropriations Committee would feel obligated to support the lower levels recommended by Senate Select Committee on Intelligence although if a strong case is made for the higher levels, it might request Senator Daniel K. Inouye (D., Hawaii) to seek the concurrence of the Senate Select Committee in approving higher levels. Such a process would not, however, conform to the generally accepted understanding of the effect of authorization bills, in that such action would require a Committee to change the effect of a bill after the bill had been passed by the Senate. Fellenbaum stressed, however, that since this process is a matter of first impression, conflicts this year may be resolved by informal means, such as noted above.

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8. While it is theoretically possible that the House Appropriations bill will contain program appropriations higher than the Senate Select Committee, it is unlikely based on past experience that this will, in fact, occur. If the House Appropriations bill contains figures which are generally consistent with the Senate Select Committee bill, the ultimate effect may be to give the Senate Appropriations Committee no negotiation room. Fellenbaum stated, however, in such an instance the Senate Appropriations Committee would not necessarily feel bound by the figures and would accept an appeal of the House Appropriations' figures even if the appeal resulted in request for appropriations higher than those recommended by the Senate Select Committee action. In essence, Fellenbaum suggested that the Community support those items in its budget that it feels strongly about so as to give the Senate Appropriations Committee all necessary information it could use to establish appropriations of the intelligence agencies.

9. The Intelligence Community staff is preparing for PRC approval, a letter commenting on the Senate Select Committee on Intelligence's recommendations. Copies are to be provided to the Chairmen of House and Senate Armed Services and Appropriations Committees. Fellenbaum recommends that when the House Appropriations Committee finishes its action on the intelligence budget, a letter of appeal be directed to the Senate Appropriations Committee Chairman specifically addressing House Appropriations action, as well as restating those comments to the Senate Select Committee on Intelligence's recommendations as are appropriate.

10. As noted earlier, certain items in the intelligence budget are treated in the Armed Services Committee authorization process. Cuts made in these items will be subject to PRC approval appealed to House-Senate Armed Services Conference.

SIGNED

George L. Cary

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**SUMMARY SHEET**

1. This year for the first time an authorization bill has been introduced in the Senate setting budget authorizations for intelligence programs.
2. The initial effect of the SSCI action is to bind Senate Appropriations Committee to levels no higher than those authorized in the SSCI bill.
3. Certain of the items authorized by SSCI are also subject to Senate Armed Services Committee action. These items will be appealed to the House/Senate Armed Services Committee Conference, subject to PRC approval.
4. According to Senate Appropriations Committee staff, while SSCI sets up authorization levels, Senate Appropriations Committee will not feel bound by specific line item cuts.
5. Should House Appropriations Committee report a bill which contains amounts in excess of those authorized by SSCI, Senate Appropriations Committee will attempt to get authorization from SSCI to agree on higher levels.
6. Should House Appropriations Committee report a bill which contains amounts consistent with or lower than SSCI bill, Senate Appropriations Committee staff reports that they may be bound by the SSCI figures, but at this time, do not feel that parliamentary procedure is clear enough to give any firm advice.
7. Senate Appropriations Committee staff recommends that Intelligence Community should follow normal appeal process.

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